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8. Taxation (§ 868 (1)*)—Stock in a Missouri National Bank Owned by Virginia Decedent, Subject to Virginia Inheritance Tax; "Estate within Commonwealth."—Under Tax Bill 1910, § 44, subsec. (a), imposing inheritance taxes upon estates within the commonwealth, stock in a Missouri national bank owned by a Virginia decedent is subject to an inheritance tax, the expression "estate within the commonwealth" including, not only such bank stock, but funds derived from the shares thereof, for the stock had a taxable situs in Virginia because of the testator's domicile.

9. Taxation (§ 868 (2)*)—Domiciliary State May Impose Inheritance Taxes, though State of Situs Has Also Imposed Such Tax.—Stock in a Missouri national bank owned by a Virginia decedent is subject to Virginia inheritance taxes as are funds derived from sale thereof, notwithstanding the state of Missouri imposed collected inheritance taxes; the double taxation not being invalid.

10. Taxation (§ 868 (2)*)—Inheritance Taxes May Be Imposed on Funds Derived from Sales of Decedent's property, and Brought Into State for Distribution.—Where stock in a Missouri national bank owned by a Virginia decedent was sold, and after payment of the Missouri inheritance tax the fund was taken into Virginia for distribution, such fund was subject to inheritance taxes imposed by the state of Virginia.

Error to Circuit Court, Grayson County.

Proceedings between Cornett's executors and the Commonwealth. There was a judgment for latter, and the former bring error. Affirmed.

W. B. Kegley, of Wytheville, and *J. H. Rhudy*, of Galox, for plaintiffs in error.

Jno. R. Saunders, Attorney General and *J. D. Hank, Jr.*, Asst. Atty. Gen., for the Commonwealth.

RADFORD WATER POWER CO. *v.* DUNLAP.

Dec. 1, 1920.

[105 S. E. 257]

1. Master and Servant (§ 40 (1)*)—Contract Breach Must Be Proved by Party Alleging It.—In an action for breach of contract of employment as general manager for a water power company, it was incumbent on plaintiff to establish both the contract and the breach.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 347.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

2. Corporations (§ 432 (6)*)—Evidence Held Relevant in Action for Breach of Contract of Employment.—In an action for breach of contract of employment as general manager, wherein it was alleged that plaintiff had been hired by a third party, who was defendant's agent, telegrams and letters between plaintiff and such third party, and a resolution of the board of defendant's directors ratifying the employment, held relevant.

3. Corporations (§ 432 (12)*)—Evidence Held to Sustain Finding that Third Person, Employing Plaintiff, Acted as Agent for Defendant's President.—In a servant's action for breach of contract of employment as general manager of a water power company, where it appeared that the services of plaintiff had been obtained through a third person, acting on behalf of a principal subsequently disclosed, evidence held to justify a finding that such third person acted for defendant's president in his dealings with plaintiff.

4. Frauds, Statute of (§ 118 (1)*)—Contract of Employment Consisting of Telegrams Signed by Agent, Held within Statute.—Where plaintiff was employed as general manager of defendant's water power company for a term of two years by a third person, acting as the agent of defendant's president, a contract composed of telegrams by such agent and plaintiff held a contract in writing, signed by the party to be charged, as required by Code 1919, § 5561.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 537]

5. Evidence (§ 178 (6)*)—Loss of Telegram and Inability to Procure Copy Held to Justify Evidence of Contents.—In a servant's action for breach of contract of employment as general manager of a water power company, where it appeared that the original telegram, constituting part of the written contract, had been lost, and that plaintiff had made unsuccessful efforts to procure a copy, it was competent for plaintiff to prove the contents of such telegram.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 327]

6. Master and Servant (§ 6*)—Evidence Held to Show Contract of Employment as General Manager of Power Company.—In an action for breach of contract of employment as general manager of water power company for a two-year term at a fixed salary, to be increased the second year if services satisfactory, telegrams and correspondence held to establish a contract of employment.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 322]

7. Evidence (§ 459 (2)*)—Parol Evidence Admissible to Show Agency of Party Signing Contract.—When it is possible to ascertain the essential terms of a contract from the writing of the parties, parol evidence is admissible to apply the contract to the parties, and show

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

the agency of one of the parties signing the contract, memorandum, or note.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 685]

8. Corporations (§ 432 (2)*)—Resolution Ratifying Contract of Employment Held Not Erroneously Admitted in Evidence.—In an action for breach of contract for employment as general manager of water power company admission in evidence of the resolution of the board of directors ratifying the contract held not error; a binding contract having been constituted independently of ratification.

9. Corporations (§ 407 (2)*)—President of Corporation Held to Have Implied Authority to Hire General Manager.—Where the president of a corporation owned the controlling interest therein and had power to hire employees, a contract of employment of a general manager upon certain terms held within his implied authority, in view of custom.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 577]

10. Corporations (§ 465*)—Ratification by Directors of President's Contract with Employee Held Not to Change It without Acquiescence.—A valid contract of employment, not requiring ratification, having been made by the president of a corporation in hiring a general manager, resolution of ratification by the directors could not change the contract, in absence of acquiescence on the part of the employee.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 415]

11. Corporations (§ 429*)—Those Dealing with Corporation Must Take Notice of the Law of Its Organization as to Authority to Contract.—Persons dealing with a corporation must take notice of what is contained in the law of its organization as to authority to contract, and they must be presumed to be informed as to the restrictions annexed to a grant of power by the laws by which the corporation is authorized to act.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 540]

Error to Corporation Court of Radford.

Action by C. C. Dunlap against the Radford Water Power Company. Judgment for plaintiff, and defendant brings error. Affirmed.

H. C. Tyler, of East Radford, and *Harless & Colhoun*, of Christiansburg, for plaintiff in error.

Jordan, Roop & Sowder, of Christiansburg, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.